



“Defendant” unless indicated otherwise) for violations of the Americans with Disabilities Act (“ADA” -42 USC §§ 12101 *et. seq.*) and the Pennsylvania Human Relations Act (“PHRA”).<sup>1</sup> As a direct consequence of Defendant’s unlawful actions, Plaintiff seeks damages as set forth herein.

### **JURISDICTION AND VENUE**

2. This Court, in accordance with 28 U.S.C. § 1331, has jurisdiction over Plaintiff’s claims because this civil action arises under laws of the United States.

3. This Court may properly maintain personal jurisdiction over Defendant because Defendant’s contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendant to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in International Shoe Co. v. Washington, 326 U.S. 310 (1945) and its progeny.

4. Pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2), venue is properly laid in this district because all of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district, and in addition, Defendant is deemed to reside where it is subject to personal jurisdiction, rendering Defendant a resident of the Eastern District of Pennsylvania.

5. Plaintiff is proceeding herein under the ADA and has properly exhausted his administrative remedies with respect to such claims by timely filing a Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”) and by filing the instant lawsuit within ninety (90) days of receiving a notice of dismissal and/or right to sue letter from the EEOC.

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<sup>1</sup> Plaintiff will move to amend his instant lawsuit to include a claim under the PHRA once his administrative remedies are fully exhausted with the Pennsylvania Human Relations Commission. Any claims under the PHRA though would mirror the instant ADA claims identically.

**PARTIES**

6. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

7. Plaintiff is an adult individual, with an address as set forth in the caption.

8. Defendants Xenia Bensalem, Inc., Xenia Fairless Hills, Inc., Xenia FoxChase, Inc., and Xenia Southampton, Inc. are all car maintenance centers owned and operated by Divya Andhavarapu (hereinafter “Andhavarapu”), doing business as “Meineke”

9. While Defendants Xenia Bensalem, Inc., Xenia Fairless Hills, Inc., Xenia FoxChase, Inc., and Xenia Southampton, Inc. are all listed as separate entities with the Secretary of State, they may be treated as a single and/or joint employer of Plaintiff for purposes of the instant action because they are sufficiently interrelated and integrated in their activities, labor relations, financial controls, operations, ownership and management. For example:

- i. All entities are owned and/or operated by Andhavarapu;
- ii. All entities are managed by Lee (last name unknown);
- iii. While Plaintiff was assigned to oversee the Bensalem location (under Lee) after Andhavarapu purchased said location from the predecessor company, Essex Automotive, employees from other locations would be asked to assist Plaintiff at his location. On other occasions, managers/employees from other locations would jointly order parts with Plaintiff’s location and also call Plaintiff’s location to ask questions and/or seek other forms of assistance;
- iv. Upon information and belief, Andhavarapu holds joint meetings with managers from each location to discuss business matters. In fact, Plaintiff

was instructed prior to his termination to attend a manager meeting at the Southampton location on a specific date. However, prior to being able to attend the meeting, Plaintiff was terminated. Plaintiff was later informed by another manager that this meeting did take place and Plaintiff's separation was discussed amongst all managers; and

- v. All entities advertise on the same website and do business under the name "Meineke;" and
- vi. All entities were created with Pennsylvania's Secretary of State on April 18, 2019 (with the exception of Xenia of Southampton, Inc – which was created on April 19, 2019).

10. At all times relevant herein, Defendant acted by and through its agents, servants and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

### **FACTUAL BACKGROUND**

11. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

12. Plaintiff was employed with Defendant's predecessor, Essex Automotive, for approximately one (1) year, working primarily as a manager (although he still performed some mechanic work).

13. In or about May of 2019, Defendant's owner, Andhavarapu, purchased from Essex Automotive the Meineke location at which Plaintiff worked in Bensalem, PA, as well as 3 other Meineke locations located in Philadelphia, Fairless Hills, and Southampton, PA.

14. Therefore, on or about May 21, 2019, Plaintiff became a full-time employee of Defendant and again was assigned to work as the service manager/general manager of Defendant's Bensalem, PA location (albeit still performing some mechanic work).

15. Plaintiff remained employed with Defendant for approximately one (1) week until he was unlawfully terminated by Defendant in or about late May of 2019.

16. During his employment with Defendant, Plaintiff was supervised by Manager, Lee (last name unknown – hereinafter “Lee”) and Andhavarapu.

17. Upon information and belief, Lee managed all four locations owned by Andhavarapu (*i.e.* Defendants Xenia Bensalem, Inc., Xenia Fairless Hills, Inc., Xenia FoxChase, Inc., and Xenia Southampton, Inc.) during Plaintiff's employment with Defendant.

18. Plaintiff has and continues to suffer from disabilities related to his hip and as a result, is (at times) limited in his ability to perform some daily life activities, including but not limited to walking, running, bending, and performing manual tasks.

19. During his brief period of employment with Defendant, Plaintiff was questioned by Defendant's management, including but not limited to his new Manager, Lee and Andhavarapu about his noticeable limp and asked what was wrong with his leg.

20. In response to Lee's and Andhavarapu's inquiry regarding his health condition, Plaintiff informed Defendant's management that he suffers from disabilities related to his hip. Plaintiff also discussed with Defendant's management the possibility of needing medical accommodations in the future (albeit not the near future).

21. For example, Plaintiff informed Defendant's management that he would eventually need to undergo a hip replacement surgery and thus need time off from work related to same.

22. After apprising Defendant's management of his aforesaid health conditions and likelihood of having to undergo surgery to get his hip replaced, Plaintiff was brought into a meeting and informed that he was being terminated for completely pretextual reasons.

23. Among the ridiculous reasons given for Plaintiff's termination, was that he would be out of work for a while to get his hip replaced.

24. Defendant's management also stated at that time of Plaintiff's termination that he was probably only working at Defendant in order to get insurance for and until his hip replacement surgery.

25. While Defendant's management informed Plaintiff that he was being terminated from his employment in May of 2019, Defendant later changed the reason for Plaintiff's separation after he filed a Charge of Discrimination with the EEOC and alleged that Plaintiff actually quit his employment with Defendant – which is completely false.

26. Based on the foregoing, Plaintiff believes and avers that he was terminated from his employment with Defendant in violation of the ADA.

**First Cause of Action**  
**Violations of the Americans with Disabilities Act, as amended ("ADA")**  
**(Actual/Perceived/Record of Disability Discrimination & Retaliation)**  
**-Against All Defendants-**

27. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

28. Plaintiff suffered from qualifying health conditions under the ADA (as amended), which (at times) affected his ability to perform some daily life activities – as discussed *supra*.

29. Plaintiff apprised Defendant's management of his aforesaid health conditions and the possibility of needing a reasonable medical accommodation in the future.

30. Plaintiff was terminated from his employment (1) shortly after apprising Defendant's management of his disabilities; (2) in close proximity to when he discussed with Defendant's management the possibility of needing reasonable medical accommodations in the future; and (3) for completely pretextual reasons – including reasons directly associated with his aforesaid health conditions.

31. Plaintiff believes and therefore avers that he was terminated from Defendant because of: (1) his known and/or perceived disabilities; (2) his record of impairment; and/or (3) because he discussed with Defendant's management the possibility of needing accommodations in the future.

32. These actions as aforesaid constitute violations of the ADA, as amended.

**WHEREFORE**, Plaintiff prays that this Court enter an Order providing that:

A. Defendant is to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendant's illegal actions, including but not limited to back pay, front pay, salary, pay increases, bonuses, insurance, benefits, training, promotions, reinstatement, and seniority.

B. Plaintiff is to be awarded punitive damages, as permitted by applicable law, in an amount believed by the Court or trier of fact to be appropriate to punish Defendant for its willful, deliberate, malicious and outrageous conduct and to deter Defendant or other employers from engaging in such misconduct in the future;


C. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper, and appropriate (including but not limited to damages for emotional distress / pain and suffering);

D. Plaintiff is to be awarded the costs and expenses of this action and reasonable attorney's fees as provided by applicable federal and state law.

Respectfully submitted,

**KARPF, KARPF & CERUTTI, P.C.**

By: \_\_\_\_\_

  
Ari R. Karpf, Esq.  
3331 Street Road  
Two Greenwood Square, Suite 128  
Bensalem, PA 19020  
(215) 639-0801

Dated: May 26, 2020



**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

Gary Misnik

CIVIL ACTION

v.


Xenia Bensalem, Inc. d/b/a Meineke, et al.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>5/26/2020</u> <b>Date</b>	 <b>Attorney-at-law</b>	<u>Plaintiff</u> <b>Attorney for</b>
<u>(215) 639-0801</u> <b>Telephone</b>	<u>(215) 639-4970</u> <b>FAX Number</b>	<u>akarpf@karpf-law.com</u> <b>E-Mail Address</b>

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**DESIGNATION FORM**

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 726 Perkins Lane, Edgewater Park, NJ 08010

Address of Defendant: 2658 Bristol Pk, Bensalem PA 19020; 125 Rte 1, Fairless Hills PA 19030; 8051 Oxford Ave, Phila PA 19111; 58 2nd St Pk, Southampton PA 18966

Place of Accident, Incident or Transaction: Defendants place of business

**RELATED CASE, IF ANY:**

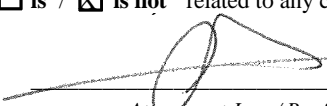
Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- |  |                              |  |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?            | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 5/26/2020

  
Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

**CIVIL: (Place a √ in one category only)**

**A. Federal Question Cases:**

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☒ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases
- (Please specify): \_\_\_\_\_

**B. Diversity Jurisdiction Cases:**

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): \_\_\_\_\_
- ☐ 7. Products Liability
- ☐ 8. Products Liability – Asbestos
- ☐ 9. All other Diversity Cases
- (Please specify): \_\_\_\_\_

**ARBITRATION CERTIFICATION**

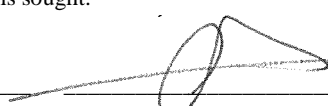
(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Ari R. Karpf, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 5/26/2020

  
Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

